IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23431 of 2004

Between:

R.Beerappa S/o.Ramaiah
II.No.13-19, Jogipet Village,
Andole Mandal, Medak Dist.

..... PETITIONER

AND

1 The Commissioner, Prohibition & Excise Department, Govt of A.P., Hyderabad.
2 The Superintendent, Prohibition & Excise Department,

Medak Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction more particularly one in the nature of Writ of "Certiorari" calling for the records relating to Cr.No.B7/553/2004 dt 2-12-2004 issued by the 2nd respondent and quash the same as illegal, arbitrary, unjust and unconstitutional and contrary to the factual position and population of the Alladurg village in the interest of justice and pas such other order or orders.

Counsel for the Petitioner: MR.M.RATNA REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

Petitioner feels aggrieved by the demand notice dated 02.12.2004 issued by the second respondent. The petitioner is a licencee in form No. IL 24. The matter relates to payment of the differential amount of licence fee based on the population in the area.

On an earlier occasion, the petitioner was issued a demand notice on 29.03.2004 for payment of the differential amount. Aggrieved thereby, he filed W.P.No.7640 of 2004. The demand notice was set aside on the ground that there was no formal determination of the matter. It was left open to the second respondent to issue notice. For the second time, a demand notice was issued on 12.08.2004. The petitioner filed W.P.No.15307 of 2004. The writ petition was allowed on the sole ground that the petitioner was not given an opportunity. It was presumably in pursuance of the directions issued by this Court in W.P.No.15307 of 2004 that the impugned notice was issued.

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition & Excise.

A bare perusal of the impugned notice discloses that the petitioner was not given an opportunity to explain and straight away the amount referred to therein was directed to be paid. On the face of it, the impugned notice is in contravention with the directions issued by this Court in W.P.No.15307 of 2004. When this was pointed out, the second respondent has promptly taken action in

withdrawing the impugned notice through memo dated 24.12.2004. It was followed by a notice of the same day whereunder the petitioner was required to explain as to why the difference of licence fee for the years 2002-03 and 2003-04 together with interest at the rate of 18% shall not be collected from him. The background facts are narrated in the notice.

Inasmuch as the notice challenged in the writ petition was withdrawn by the second respondent, the grievance of the petitioner stands redressed. The petitioner was issued a fresh notice dated 24.12.2004 to explain within two weeks as to why the amount referred to therein shall not be collected from him. It shall be open to the petitioner to submit the explanation and the second respondent, in turn, shall consider the same before passing any orders.

Learned counsel for the petitioner submits that certain documents are referred to in the show cause notice and the copies of the same may be directed to be furnished. It shall be open to the petitioner to make a representation to the second respondent for furnishing such documents as are referred to in the show cause notice and on receiving such an application, the second respondent shall furnish the copies of the same. The petitioner shall be given one week time from the date of furnishing of such documents, to submit his explanation.

The writ petition is accordingly disposed of. No order as to costs.

27.12.2004

ksld

To

1 The Commissioner, Prohibition & Excise Department, Govt of A.P., Hyderabad.
2 The Superintendent, Prohibition & Excise Department,

Medak Dist.

3 Two CCs.to the G.P.for Prohibition & Excise, High Court of A.P.,

Hyderabad (OUT).

4 Two CD copies.